



Joint Legislative Audit Committee
Office of the Auditor General



**REPORT TO THE
CALIFORNIA LEGISLATURE**



**QUESTIONABLE EXPENDITURES
STUDENT HEALTH FEES
CHANCELLOR'S OFFICE
CALIFORNIA COMMUNITY COLLEGES**

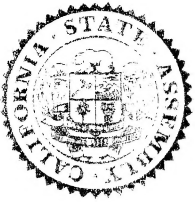
Office of the Auditor General
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REPORT OF THE
OFFICE OF THE AUDITOR GENERAL
TO THE
JOINT LEGISLATIVE AUDIT COMMITTEE

709

QUESTIONABLE EXPENDITURES OF STUDENT HEALTH FEES

SEPTEMBER 1977



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September 14, 1977

The Honorable Speaker of the Assembly
The Honorable President pro Tempore of
the Senate
The Honorable Members of the Senate and the
Assembly of the Legislature of California

Members of the Legislature:

Your Joint Legislative Audit Committee respectfully submits the Auditor General's report on questionable expenditures of student health fees administered by California Community Colleges.

Legislative Counsel has concluded that expenditures for athletic injury insurance, game physicians, trainers, and standby ambulances are improper. Chancellor William G. Craig in an erudite response argues that the Education Code defines permitted expenditures and concedes that only trainer salaries are suspect.

Legislative intent relating to mandatory student health fees may require clarification by the policy committees to which the report is referred for review and appropriate action.

By copy of this letter, the Department is requested to advise the Joint Legislative Audit Committee within sixty days of the status of implementation of the recommendations of the Auditor General that are within the statutory authority of the Department.

The auditors are Robert M. Neves, Manager; Merrill E. Tompkins and Nancy Szczepanik.

Respectfully submitted,

MIKE CULLEN
Chairman

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SUMMARY

Pursuant to the Education Code, California community college districts may require students to pay a fee for health supervision and services, including direct or indirect medical and hospitalization services, or for operation of a student health center. All such fees are to be expended only for the purposes collected.

We reviewed the health services programs of 22 community colleges which assess a student health fee and found that:

- Twenty of these colleges are expending student health fees on athletic programs; a practice which the Legislative Counsel believes is improper.
- The unexpended balances of student health fees are improperly accounted for by some colleges and lose their identity in the general funds of the community college districts (page 10).
- The Education Code requires more restrictive language if health fees are to be used only for direct costs of health programs (page 12).

We recommend that the Legislature amend appropriate sections of the Education Code to clarify which services may be funded by student health fees. We also recommend action by the Chancellor's Office of the California Community Colleges to separately account for the unexpended balances of student health fees.

INTRODUCTION

We have reviewed the use of student health fees by selected California community colleges. Our review was made pursuant to a resolution of the Joint Legislative Audit Committee and under authority vested in the Auditor General by Section 10527 of the Government Code.

Student health services are the responsibility of the governing boards of school districts. Section 76400^{1/} of the Education Code provides:

The governing board of any community college district shall give diligent care to the health and physical development of students and may employ properly certified persons for the work.

California community college districts are authorized by state law to collect a fee from community college students for health supervision and services, including direct or indirect medical and hospitalization services, or for operation of a student health center.

Thirty-eight of the State's 70 community college districts collect health fees. These districts budgeted in excess of \$3 million for health services in fiscal year 1976-77.

^{1/} All references to Code sections are to sections of the Education Code as reorganized, effective April 30, 1977.

Health services provided by the community colleges consist of diagnostic and therapeutic services for primary care of injuries and illnesses. If treatment beyond primary care is required, the students are referred to outside agencies and private medical institutions.

Included in the health services programs are services of full-time registered nurses, general practice physicians and medical specialists such as gynecologists, psychologists and psychiatrists. Psychiatric care is provided in the form of short-term, crises-centered therapy. Services are available days and evenings during the regular school year and usually during summer sessions. Records are maintained on the physical health of each student. Student accident insurance claims are processed at the health centers as well as workers' compensation claims for district employees.

We reviewed the health services programs of 13 community college districts encompassing 22 colleges which assessed a health fee in fiscal year 1976-77 (see Appendix A). The intent of our review was to determine whether the districts expend health fees for purposes other than health services.

AUDIT RESULTS

QUESTIONABLE EXPENDITURES OF STUDENT HEALTH FEES

Community college districts may require students to pay a fee for health services. Such fees are required by law to be used only for the purposes collected. Education Code Section 72246 provides:

The governing board of a district maintaining a community college may require community college students to pay a fee in the total amount of not more than ten dollars (\$10) for the regular school year for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both. . . .

All of such fees shall be deposited in the general fund of the district, and shall be expended only for the purposes for which such fees were collected. (Emphasis added.)

Twenty of the 22 colleges that we reviewed expend health fees for purposes related to athletic programs as well as health services programs. Only two of these colleges expend the health fees exclusively for health services.

The Legislative Counsel has expressed the opinion that the expenditure of health fees for purposes related to athletic programs is an improper use of such fees (Appendix B). Legislative Counsel concluded that:

Health fees collected pursuant to Section 72246 of the Education Code may not be expended for athletic insurance, medical supplies for athletics, or athletic trainers' salaries, since those purposes relate more directly to a different community college program.

Legislative Counsel further reasoned that:

While such expenses related to the athletic program are also generally related to health matters, we do not think that the Legislature intended that fees collected for health services also be used for expenses essential to the support of another community college program.

Health fees are expended for the athletic program for the following specific purposes: accident insurance for members of athletic teams, salaries of athletic trainers, payments to doctors for providing physical examination of athletes and for being in attendance at football games, and ambulance services for athletic events.

These expenditures are discussed on the following pages of this report.

Athletic Accident Insurance

Since 1961, all California educational institutions are required by the Education Code to provide insurance for death, medical and hospital expenses resulting from accidental bodily injuries to athletic team members.^{1/} That Code section does not require such insurance for students other than athletic team members.

In fiscal year 1976-77, 18 of the 22 colleges in our study funded their athletic insurance from health fees assessed against students.^{2/} That insurance was not exclusively for students engaged in intercollegiate athletics but to the extent that it was, the Legislative Counsel concludes that such funding violated the Education Code.

The exact amount of the insurance cost attributable to athletic team members is undetermined. The majority of the colleges pay a single insurance premium for both the athletic team members and all other students. However, there are indications that a substantial portion of the cost for accident insurance is attributable to athletic team members.

^{1/} Athletic team members include members of school bands, cheerleaders, team managers and any student directly assisting in athletic events sponsored by the colleges.

^{2/} Only one college in our study assessed a student health fee prior to fiscal year 1971-72. Therefore, the other community colleges provided the required insurance from sources other than student health fees until fiscal year 1971-72.

For example, one college which had insurance loss ratio information for a three-year period showed 71 percent of the proceeds paid on claims were for athletic injuries and 29 percent were for non-athletic injuries. Based on these percentages, the \$16,500 insurance cost for this college included \$11,715 for the athletic program and \$4,785 for the health services program. If the athletic program, rather than the students had been charged for its share of the cost, \$11,715 more would have been available for student health services.

One community college district expanded its accident insurance from athletic team members only to all students. The insurance premium increased from \$25,950 to \$40,750, which indicates that 64 percent of the insurance cost is attributable to the coverage provided athletic team members. If the athletic program had been charged for its share of the cost, \$25,950 more would have been available for student health services.

A third example of the insurance cost due to athletic team members' coverage occurred at a college that has separate insurance policies for the athletic team members and for the college's 11,750 students. Student Body Funds of \$10,190 were paid for the athletic insurance, and student health fees of \$8,500 were used to pay for the insurance for the 11,750 students. Fifty-five percent of the total insurance cost was for athletic insurance and 45 percent was for student health insurance. Applying the Legislative Counsel's rationale in this example, insurance costs were properly charged to their funding sources.

The above examples clearly demonstrate that including coverage for athletic team members increases the cost of student accident insurance. During fiscal year 1976-77, the 18 colleges expended over \$450,000 of student health fees for student accident insurance. A portion of this cost is attributable to the coverage provided to athletic team members, and it appears that the cost should be charged to the athletic program.

Athletic Trainers

Four colleges in our study included athletic trainers' salaries as a cost of the health services program. Three of these colleges funded 50 percent of the trainers' annual salaries from student health fees and one college funded the entire salary from such fees. The total cost of the salaries charged to the student health fees was approximately \$27,000.

Ambulance Service and Doctors for Athletic Events

Three colleges used student health fees to provide ambulance services for home football games. Physical examinations for intercollegiate athletics were provided at eight colleges through contracts with doctors in private practice. Five of the doctors were required to attend intercollegiate events. These doctors were paid from student health fees.

Deductible Provision on Accident Insurance for Athletes

One college provided \$3,500 from student health fees to the athletic department to pay for the deductible portion of accident claims filed for athletic team members.

CONCLUSION

Community colleges are partially funding athletic programs from student health fees. According to the Legislative Counsel, this is an improper use of such fees.

RECOMMENDATION

We recommend that the Legislature amend appropriate sections of the Education Code to clarify which services may be funded by student health fees. We also recommend action by the Chancellor's Office of the California Community Colleges to separately account for the unexpended balances of student health fees.

BENEFIT

Legislation to eliminate the use of student health fees to partially fund athletic programs would increase the funds available for the general student body health programs or reduce the assessment necessary for student health fees.

INADEQUATE ACCOUNTING
FOR UNEXPENDED BALANCES
OF STUDENT HEALTH FEES

The Education Code requires that student health fees be deposited in the district's general fund and be expended only for the purpose collected. However, the community colleges are inadequately accounting for the unexpended balances of these fees.

Seventeen of the community colleges improperly identify the health fee ending balances available to carry over to the next fiscal year. Some colleges estimate the amount of carryover balances; we found these estimates to be inadequately supported. Other colleges do not separately account for the unexpended balance, and instead include the amounts with other district funds. In some cases, districts absorb the unexpended balances of student health fees into their general fund balances. As a result, health fees may be used for purposes other than providing student health services.

Some college administrators contend that it is proper to absorb these balances into district funds because the health service program is not charged directly for expenses such as utilities and administrative costs. While the contention may be accurate, the administrators have not considered that the health programs, funded by student health fees, provide free services to college employees. These services include first aid and medical consultation and processing of insurance and workers' compensation claims.

CONCLUSION

Community college districts inadequately account for unexpended balances of student health fees. Consequently, student health fees could be used to provide services other than those for which the fees were collected.

RECOMMENDATION

We recommend that the Chancellor of the California Community Colleges direct the community college districts to separately account for the unexpended balances of student health fees.

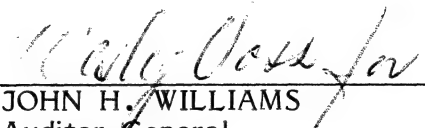
INFORMATION REQUESTED BY THE LEGISLATURE

The following information is provided in response to a legislative request on the appropriateness of expending student health fees, authorized by Section 72246 of the Education Code, for such purposes as administrative costs, fringe benefits for health service personnel, sabbatical leave for health nurses, maintenance expenses, utilities, overtime payments to district personnel working before and after their regular work hours as cashiers to collect the health fees, and alterations to district-owned buildings.

The Legislative Counsel contends that health fees may be expended for all of the above purposes (Appendix B), to the extent that they are reasonably related to health supervision and services and the operation of a community college student health center, and are in keeping with sound principles of accounting. A listing of the purposes for which the student health fees are budgeted by the 22 colleges is shown in Appendix C.

The Education Code is not explicit in describing the purposes for which health fees may be expended. If the Legislature intends to restrict the expenditure of student health fees, the Education Code should be amended to specifically identify which costs may be funded from health fees.

Respectfully submitted,


JOHN H. WILLIAMS
Auditor General

Date: September 9, 1977

Staff: Robert M. Neves, Audit Manager
Merrill E. Tompkins
Nancy L. Szczepanik

CALIFORNIA COMMUNITY COLLEGES

1238 S STREET
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September 8, 1977

Mr. John H. Williams
Auditor General
925 L Street
Suite 750
Sacramento, CA 95814

Dear Mr. Williams:

I have received a copy of a draft of your report on Community College Student Health Fees and appreciate an opportunity to react to it before it is finalized.

Among the materials you have provided is a copy of an opinion made by the Legislative Counsel holding that the expenditure of health fees for purposes related to athletic programs is an improper use of such fees.

* * * 1/

Our own Legal Counsel differs in conclusion from that of Legislative Counsel and interprets the matter as follows:

Education Code Section 72246 permits a fee of up to \$10 per school year to be charged of students for "health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both." (emphasis added)

Subsection (e) of Section 72246 limits the expenditure of these fees in the following manner:

"All of such fees shall be deposited in the general fund of the district, and shall be expended only for the purposes for which such fees were collected." (emphasis added)

The narrow issue thus becomes whether the phrase "health supervision and services, including direct or indirect medical and hospitalization services" can be interpreted to encompass insurance provided for members of athletic teams. Critical in making this interpretation are two factors: how the Education Code otherwise addresses the term "health supervision and services," and the legislative history of Section 72246 itself.

1/ Comments deleted refer to items shown in draft report but not included in this report.

The Education Code does not define the term "health supervision and services." However, the Code has an entire Chapter devoted to health supervision and services (Chapter 3 entitled "Student Health Services and Supervision" of Part 47 of the Reorganized Code, commencing with Section 76400). The following provisions should be noted:

1. Section 76404. Section 76404 permits a district to expend funds under its jurisdiction for the purposes of carrying out the provisions of Chapter 3 (commencing with Section 76400) and Chapter 1 (commencing with Section 32000) of the Education Code.

Within this Chapter 1 is Article 3, relating to "Insurance for Athletic Teams," (Sections 32220 - 32224). Thus, insurance for athletic teams is an authorized expenditure of district funds under the provisions of the Education Code which relate to health supervision and services.

2. Section 76470. Section 76470 authorizes a district to provide medical and hospital service:

"through group, blanket or individual policies of accident insurance from an authorized insurer, for pupils of the district or districts injured while participating in athletic activities..."

The cost of the insurance may be paid from the funds of the district or districts, or by the insured pupil, his parent or guardian.

3. Section 76471. This Section authorizes the provision of medical and hospital services to students generally, including the provision of such services by means of group, blanket or individual policies of accident insurance, or through policies of liability insurance.

A reading of the above cited provisions establishes that accident insurance for athletic team members falls within the scope of health supervision and services which may be provided by Community College districts. The Legislature has not only expressly included the provisions which authorize such insurance within the chapter on health supervision and services; it has also authorized districts to expend their funds to procure such insurance.

A review of the legislative history of Section 72246 (former Section 25425) also leads to the conclusion that accident insurance for athletic team members is a permissible expenditure of student health fees. As added by Chapter 401 of the Statutes of 1970, Section 25425 authorized health fees to be expended for "medical and hospitalization services authorized by Article 1 (commencing with Section 11701) of Chapter 4 of Division 9." Within Article 1 was Section 11705, which, as previously noted, authorized the expenditure of district funds for the purposes of carrying out all of Chapter 4 (which includes accident insurance for athletic team members).

Section 25425 was amended in 1973 (Chapter 1142) to additionally authorize the expenditure of health fees for the operation of a student health center or centers. The specific reference to Article 1 of Chapter 4 was deleted. As such, the specific authority to provide indirect health supervision and services (by means of insurance, for instance) was deleted.

The next year, Section 25425 was again amended, by urgency legislation, (Chapter 418, Statutes of 1974) to permit districts to provide direct or indirect medical and hospitalization services. As such, express authorization was again given for the procurement of accident insurance to provide such services.

Other related Education Code Sections such as 76450, 76473, and 76471 further suggest that the use of health fees for activities such as physical examinations, ambulance services and possibly for providing doctors attendance at athletic events is a proper use of such fees. These sections fall under the authorization of Part 47, Chapter 3, Student Health Services and Supervision, of the California Education Code and can be construed to be included under those activities which may be supported by health service fees.

The difference in opinion reached by the two Legal Counsels is attributed to differences in their determination of which are the relevant and pertinent code sections around which this question revolves. The Legislative Counsel cites Section 72244 and 72246 which provides for Community College health supervision and services through a student health fee. However, no reference was made in his analysis to Part 47, Chapter 3, of the Education Code commencing with Section 76400 which more clearly describes the scope of student health services and supervision, and which we believe provides the legal basis for the use of health fees to support related athletic programs. Perhaps an Attorney General's opinion will ultimately be able to settle the legal questions involved in this dispute, however, I believe there are other options available.

There are three major functions of Community College Health services: (1) health guidance (including health counseling and health appraisal), (2) health protection, and (3) coordination of health services with other Community College programs. From this standpoint, health protection as well as the coordination of health services with other programs is no less of a priority or concern in the area of athletic programs as it is for other programs which carry with them a high incident of accident risk. I do not believe we should focus our attention on the cost of protection attributable to each program or aspect of the Community College offering; but to provide some form of protection to students, staff and members of the community despite those aspects of the Community College experience, their interest may lead them to become involved in.

On the other hand, health service fees should not be used to support activities which more appropriately should come out of program funds. Providing salaries for athletic trainers may fall into this category.

We therefore conclude that limitation of the use of student health fees by excluding its use for athletic programs through legislative mandate runs the risk of seriously jeopardizing the development of comprehensive health service programs in Community Colleges. Yet policies which would clarify the appropriate use of funds are needed.

* * * 1/

The Auditor General's Office should recommend that the Chancellor's Office develop policies in accord with the

1/ Comments deleted refer to items shown in draft report but not included in this report.

September 8, 1977

spirit of the above conclusion. Additionally, these policies should encourage the use of student health fees for comprehensive use to meet student needs for health guidance, protection and coordination for general student body health programs.

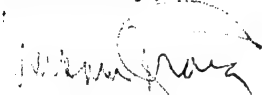
In regard to your findings of inadequate accounting for unexpended balance, we concur with the audit report's conclusion (page 11) that unexpended balances from student health fees should be separately identified and carried over into the next fiscal year.

Our position is that income from student health fees, as authorized by ECS 72246, are restricted funds, and, as such, the income and expenditures from such income should be separately accounted for. Any unexpended balance should be carried over into the next fiscal year to be expended only for the purpose for which such fees were collected.

I plan to notify all Community College districts that income derived from student health fees are restricted funds and are to be accounted for accordingly.

If you have any questions regarding this position, please feel free to contact me or Gus Guichard. I would appreciate an effort to work out as much as possible any differences in our position prior to release of your official report.

Sincerely,



William G. Craig
Chancellor

CALIFORNIA COMMUNITY COLLEGES
STUDENT HEALTH FEES
COLLEGES IN STUDY COLLECTING HEALTH FEES
FISCAL YEAR 1976-77

| <u>Community College</u> | Student Enrollment (Fall & Spring) | Health Fee Per Semester | Budgeted | |
|--------------------------|--|-------------------------------|--------------------|---------------------|
| | | | <u>Revenue</u> | <u>Expenditures</u> |
| SIERRA | 15,855 | \$3.75 | \$28,000 | \$ 37,924 |
| SAN JOSE | 28,306 | 5.00 | 80,000 | 61,685 |
| EVERGREEN | 11,021 | 5.00 | 35,000 | 51,232 |
| SAN MATEO | 29,993 | 4.00 | 75,000 | 78,587 |
| SKYLINE | 14,982 | 4.00 | 25,000 | 51,241 |
| CANADA | 18,177 | 4.00 | 20,000 | 17,343 |
| WEST VALLEY | 42,027 | 2.00 | 100,000 | 98,701 |
| FULLERTON | 39,664 | 4.00 | 197,500 | 233,256 |
| CYPRESS | 22,581 | 4.00 | 119,484 | 117,262 |
| ORANGE COAST | 40,420 | 5.00 | 290,000 | 296,130 |
| GOLDEN WEST | 37,620 | 5.00 | 153,000 | 154,135 |
| RIO HONDO | 27,272 | 4.50 | 135,000 | 132,243 |
| SANTA ANA | 23,500 | 3.50 | 128,000 | 192,345 |
| SAN DIEGO CITY | 11,354 | 5.00 | 66,250 | 79,713 |
| SAN DIEGO MESA | 18,721 | 2.00 | 54,376 | 54,376 |
| PALOMAR | 27,662 | 4.00 | 102,115 | 102,115 |
| FRESNO | 32,420 | 5.00 | 85,000 | 72,268 |
| REEDLEY | 6,735 | 5.00 | 45,000 | 41,308 |
| MT. SAN ANTONIO | 38,170 | 3.75 | 154,553 | 160,940 |
| VENTURA | 24,382 | 4.00 | 115,200 | 115,898 |
| MOORPARK | 18,720 | 4.00 | 93,300 | 93,762 |
| OXNARD | 8,757 | 4.00 | <u>34,000</u> | <u>55,019</u> |
| Totals | | | <u>\$2,135,778</u> | <u>\$2,297,483</u> |

OWEN K. KUNS
RAY H. WHITAKER
CHIEF DEPUTIES

STANLEY M. LOURIMORE
EDWARD F. NOWAK
EDWARD K. PURCELL

KENT L. DECHAMBEAU
HARVEY J. FOSTER
ERNEST H. KUNZI
SHERWIN C. MACKENZIE, JR.
ANN M. MACKAY
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RUSSELL L. SPARLING
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Legislative Counsel of California

BION M. GREGORY

Sacramento, California
August 9, 1977

Honorable Mike Cullen
Assembly Chamber

Health Fees - #8513

Dear Mr. Cullen:

QUESTION

You have asked whether a fee collected by the governing board of a community college district from community college students pursuant to subdivision (a) of Section 72246 of the Education Code may be expended for the following listed purposes: administrative costs, fringe benefits for health service personnel, minor capital improvements (such as alterations and modifications of district-owned buildings), athletic insurance, sabbatical leave for health nurses, medical supplies for athletics, athletic trainers' salaries, maintenance expenses, utilities, and overtime payments to district personnel for working before and after their regular work hours as cashiers to collect the health fees.

OPINION

Health fees collected pursuant to subdivision (a) of Section 72246 of the Education Code may be expended for administrative costs, fringe benefits for health service personnel, minor capital improvements, maintenance expenses, utility payments, sabbatical leave for health nurses, and overtime payments to district personnel for working before and after their regular work hours as cashiers to collect the health fees, to the extent that they are reasonably

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JIMMIE WING
CHRISTOPHER ZIRKLE
DEPUTIES

related to health supervision and services and the operating of a student health center or centers of a community college district, and are in keeping with sound principles of accounting. Health fees collected pursuant to Section 72246 of the Education Code may not be expended for athletic insurance, medical supplies for athletics, or athletic trainers' salaries, since those purposes relate more directly to a different community college program.

ANALYSIS

Initially, we note that the governing board of a community college district is authorized to execute any power delegated by law to it or the district of which it is the governing board (Sec. 72200, Ed. C.*). Statewide administrative control over the community colleges is vested in the Board of Governors of the California Community Colleges, which is required to adopt rules and regulations not inconsistent with the laws of this state for the government and supervision of the public community colleges (see Ch. 1 (commencing with Sec. 71000), Part 44, and in particular, Sec. 71062).

Section 72244 expressly authorizes the governing board of any district maintaining a community college to provide health supervision and services, including direct or indirect medical and hospitalization services, and to operate a student health center or centers. In this regard, Section 72246 authorizes the governing board of a community college district to collect a fee of no more than \$10 per regular school year per pupil in attendance in grades 13 and 14 "... for health supervision and services, including direct or indirect medical and hospitalization services, or the operation of a student health center or centers, authorized by Section 72244, or both." Furthermore, Section 72246 provides that "[a]ll of such fees shall be deposited in the general fund of the district, and shall be expended only for the purposes for which such fees were collected" (subd. (e), Sec. 72246).

Since Section 72246 limits the expenditure of fees collected pursuant to that provision to providing health supervision and services, including direct or indirect medical and hospitalization services, and to operate a student

* All references to code sections are to sections of the Education Code as reorganized, effective April 30, 1977, unless otherwise specified.

health center or centers, as authorized by Section 72244, it is our opinion that the Legislature did not intend such fees to be expended for any other purposes. Statutes must be given a reasonable and common sense construction (Rose v. State of California, 19 Cal. 2d 713, 723). It is established that where a statute enumerates the things to be affected by its provisions, there is an implied exclusion of others (People v. Miller, 143 Cal. App. 2d Supp. 843, 852). As to what expenses the governing board of a community college district may legitimately classify as being incurred for health supervision and services and for the operation of a student health center or centers, we think the answer must be determined in light of established accounting practices of the community colleges, both as prescribed by the Board of Governors of the California Community Colleges and as determined according to general principles of law.

Section 84004 requires the Board of Governors of the California Community Colleges to provide for a uniform system of accounting for all community college districts and to define and establish methods for accounting for revenues and expenses for community college purposes (see also Sec. 71073). Pursuant to such authority, the board of governors has adopted the "California Community College Budget and Accounting Manual." Such manual defines health services as those activities included under the school accounting manual Category 400 ("California Community College Budget and Accounting Manual," April 1977 Edition, subd. III, p. 16).**

"Category 400" activities include certificated and classified salaries of health personnel and other expenses of health services. Other expenses of health services generally include medical, dental, and first aid supplies, supplies used in the operation of equipment used in the furnishing of health services, rental of equipment used in the health program, and health services provided by other entities in the furnishing of community college health services (see "California School Accounting Manual," 1971 Edition, subd. II, pp. 27-28).

** The current "California School Accounting Manual," which is the 1976 edition, has no "Category 400." The previous edition, which was the 1971 edition, does, however, and we think such provisions were intended to be incorporated by reference into the current community college accounting manual.

However, we do not think that the current community college accounting manual can be construed to limit expenditures of student health fees collected pursuant to Section 72246 only to those purposes set forth in Category 400 to the extent that such purposes are more limited than that authorized by the statute. It will be observed that the terms used in the statutes are somewhat broader than those used in Category 400. While the administrative construction of a statute is given great weight by the courts, and will be upheld unless clearly erroneous (see Misasi v. Jacobsen, 55 Cal. 2d 303), no regulation is valid or effective unless it is consistent with the statute and reasonably necessary to effectuate its purpose (see Sec. 11374, Gov. C.; Whitcomb Hotel v. California Employment Commission, 24 Cal. 2d 753; Rosas v. Montgomery, 10 Cal. App. 3d 77, 87-88).

While there may be questions as to whether or not some of the purposes in question are includable under Category 400, we think that the appropriate inquiry is whether or not the expenditure is valid under the statute.

This being the case, we conclude that the governing board of any community college district may certainly expend health fees collected pursuant to Section 72246 for any purpose permitted by Category 400 to the extent permitted by sound principles of accounting. Further, we think that any purpose which is reasonably related to "... health supervision and services ..." and "... the operation of a student health center or centers ..." would also be authorized, to the extent permitted by sound principles of accounting, depending upon the facts and circumstances involved.

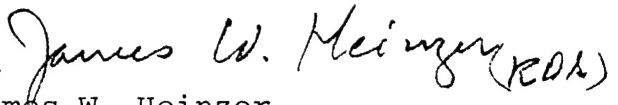
Thus, we think that health fees collected pursuant to Section 72246 may be expended for administrative costs, fringe benefits for health service personnel, minor capital improvements, maintenance expenses, utility payments, sabbatical leave for health nurses, and overtime payments to district personnel for working before and after their regular work hours as cashiers to collect the health fees, to the extent that they are reasonably related to health supervision and services and the operating of a student health center or centers of a community college district and are in keeping with sound principles of accounting.

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We do not think that such fees may be expended for athletic insurance, medical supplies for athletics, or athletic trainers' salaries, since such expenditures are not provided for in Category 400 nor are they reasonably related to health supervision and services for students generally or the operation of a student health center or centers. While such expenses related to the athletic program are also generally related to health matters, we do not think that the Legislature intended that fees collected for health services also be used for expenses essential to the support of another community college program.

Very truly yours,

Bion M. Gregory
Legislative Counsel

By  (KOA)
James W. Heinzer
Deputy Legislative Counsel

JWH:pcu

CALIFORNIA COMMUNITY COLLEGES
STUDENT HEALTH FEES
CATEGORIES OF BUDGETED EXPENSES
FISCAL YEAR 1976-77

COMMUNITY COLLEGES

| CATEGORIES | SIERRA | SAN JOSE | EVERGREEN | SAN MATEO | SKYLINE | CANADA | WEST VALLEY | FULLERTON | CYPRESS | ORANGE COAST | GOLDEN WEST | RIO HONDO | SANTA ANA | SAN DIEGO CITY | SAN DIEGO MESA | PALOMAR | FRESNO | REEDLEY | MT. SAN ANTONIO | VENTURA | MOORPARK | OXNARD |
|--|--------|----------|-----------|-----------|---------|--------|-------------|-----------|---------|--------------|-------------|-----------|-----------|----------------|----------------|---------|--------|---------|-----------------|---------|----------|--------|
| Salaried Employees: | | | | | | | | | | | | | | | | | | | | | | |
| Nurse | • | • | • | • | • | | • | • | • | • | • | • | • | | | • | • | • | • | • | • | • |
| Medical Doctor | | • | • | | | | | | | | | | | | | | | | | | | |
| Medical Assistant or Nurse Associate | | | | | | | • | | | • | • | | | • | | | | | | | | |
| Psychologist | | | | | | | | | | | | • | | | | | | | | | | |
| Evening Nurse | | • | • | | | | • | • | • | • | • | • | • | | | • | • | | • | • | • | |
| Substitute Nurse | | • | • | • | • | | | | | • | • | • | • | | | | | | • | • | • | |
| Summer Session Nurse | | | | | | | • | • | • | • | • | • | • | | | • | • | | • | • | • | |
| Athletic Trainer | | | | | | | • | | • | | | | | | | | | | | • | | |
| Clerical direct | • | • | • | • | • | • | | • | • | • | • | • | • | • | | • | • | • | • | • | • | • |
| Clerical indirect | | • | | | | | | | | | | | | • | • | | | | • | • | • | |
| Student Assistants | | | | | | | | • | • | • | • | | | • | | | | | | • | | • |
| Sabbatical Leave | | | | | | | | • | | • | | | | | | | | | | | | • |
| Fringe Benefits for Salaried Employees: | | | | | | | | | | | | | | | | | | | | | | |
| State Teachers Retirement | | • | • | • | • | | | | | | | • | • | | | | • | • | • | • | • | • |
| Public Employees Retirement | | • | • | | | | • | | | | | • | • | • | • | | • | • | • | • | • | • |
| Workers' Compensation | | | | • | • | | • | | | | | • | • | • | • | | • | • | • | • | • | • |
| Medical Insurance | | | | • | • | • | • | | | | | • | • | • | • | | • | • | • | • | • | • |
| Dental Insurance | | | | • | • | • | • | | | | | • | • | • | • | | • | • | • | • | • | • |
| Social Security | | | | • | • | | • | | | | | • | • | • | • | | • | • | • | • | • | • |
| Life Insurance | | | | • | • | | • | | | | | | • | • | • | | • | • | • | • | • | • |
| Income Protection | | | | • | • | | | | | | | | | | | | • | • | | | | |
| Unemployment Insurance | | | | • | | | • | | | | | | • | | | | • | | • | • | • | • |
| Contract Services: | | | | | | | | | | | | | | | | | | | | | | |
| Medical Doctor | | | | | | | • | • | • | • | • | • | • | • | | | | | • | • | • | • |
| Psychologist or Psychiatrist | | | | | • | | | • | • | • | • | | • | • | | | | | • | • | • | • |
| Gynecologist | | | | | | • | | • | • | | | • | | | | | | | | | | |
| X-Ray Technician | | | | | | | | | | • | | | | | | | | | | | | |
| Ambulance for Athletic Events | | • | | | | | | | | | | | | | | • | | | • | | | |
| Physical Examinations for Athletes | | | | | | | • | | • | | • | | | | | • | | • | | • | • | • |
| Operating Expenses: | | | | | | | | | | | | | | | | | | | | | | |
| Office Supplies | | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • |
| Telephone | | | | | | | | | | | | | | | | | | | | | | |
| Medical Supplies | • | • | • | | | | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • |
| Travel and Conference Fees | • | • | • | • | • | • | • | • | • | • | • | | • | • | | • | • | • | • | • | • | • |
| Dues and Memberships | | | | | | | | | | | | | | | | | | | | | | |
| Equipment Repair and Maintenance | | | | | | | | • | | • | • | | • | | | | | | • | • | • | • |
| Water Service | | | | | | | | | | | • | | | | | | | | | | | |
| Administrative Charges | | | | | | | | | • | | | | | • | • | | | | • | | | |
| Malpractice Insurance | | | | | | | | • | | | | • | • | | | | | | • | | | |
| Pro rata District Liability | | • | • | | | | | | | | | | | | | | | | | | | |
| Student Accident Insurance | | | | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • |
| Athletic Accident Insurance | | | | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • | • |
| Building Improvements | | | | | | | | • | | | | | | | | | | | | • | • | • |
| Trailer Lease | | | | | | | | | | • | • | | | | | • | | | | • | • | • |
| Equipment | | • | • | | | | • | • | • | • | • | | • | • | | • | | | • | • | • | • |
| Building Contingency | | | | | | | | | | • | • | | | | | | | | | | | |
| Deductible for Athletic Insurance Claims | | | | | | | | | • | | | | | | | | | | | | | |